

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

KAY STONE,)
)
Plaintiff,)
)
vs.) **CV 07-B-1212-NE**
)
JUDGE LYNWOOD SMITH,)
)
Defendant.)

MEMORANDUM OPINION

This case is presently pending before the court on defendant's Motion to Dismiss.

(Doc. 4.)¹ Plaintiff Kay Stone, through her mother, Renate H. Stone, has filed a Complaint, (doc. 1), against defendant Lynwood Smith, a District Judge on this court, based upon her claim that Judge Smith should have recused himself from hearing her case, *Stone v. Huntsville Hospital*, CV 01-HS-1862-NW, based on his alleged friendship with Huntsville Hospital's employee, Andrea Rosler. For the reasons set forth below, the court² finds that it lacks jurisdiction to decide plaintiff's claims. Therefore, plaintiff's case will be dismissed.

On December 18, 2007, the court entered a Show Cause Order, instructing plaintiff to show cause, in writing, why her claims should not be dismissed for lack of subject matter

¹Reference to a document number, ["Doc. ___"], refers to the number assigned to each document as it is filed in the court's record.

²This case was assigned to the undersigned by a random draw.

jurisdiction. (Doc. 6.) On January 9, 2007, the court extended the time for plaintiff to file her response. (Doc. 8.) To date, the court has not received any response from plaintiff.

For the reasons set forth in the court's Show Cause Order, (doc. 6), the court finds that it is without subject-matter jurisdiction because plaintiff lacks standing. Any arguable injury that may have resulted from Judge Smith presiding over plaintiff's case against Huntsville Hospital was remedied completely by vacation of his judgment and reassignment to a different district judge on remand. *See Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847, 868 (1988). Moreover, this court cannot award plaintiff relief from Judge Smith for the dismissal of her claims against Huntsville Hospital because the ultimate dismissal of her claims was the decision of Judge Hopkins, not Judge Smith, and that dismissal was affirmed by the Eleventh Circuit after de novo review.

Therefore, defendant's Motion to Dismiss, (doc. 4), will be granted and plaintiff's claims will be dismissed.

CONCLUSION

For the foregoing reasons, the court is of the opinion that it lacks subject-matter jurisdiction over plaintiff's claims. An Order granting defendant's Motion to Dismiss, (doc. 4), will be entered contemporaneously with this Memorandum Opinion.

DONE, this the 24th day of January, 2008.



SHARON LOVELACE BLACKBURN
CHIEF UNITED STATES DISTRICT JUDGE